

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A22-1082**

State of Minnesota,  
Respondent,

vs.

Nathan Thomas Veesenmeyer,  
Appellant.

**Filed June 26, 2023  
Affirmed  
Reyes, Judge**

Becker County District Court  
File No. 03-CR-19-1607

Keith Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, St. Paul, Minnesota; and

Brian McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Reilly, Judge; and Reyes, Judge.

**NONPRECEDENTIAL OPINION**

**REYES, Judge**

In this appeal from a final judgment, appellant argues that his conviction of theft must be reversed because the state failed to prove beyond a reasonable doubt that he was the perpetrator. We affirm.

Undisputed evidence in the record establishes the following facts. Lakeshirts is a business in the Detroit Lakes area. On the morning of July 29, 2019, D.H., who was a facility manager at Lakeshirts, found that a trailer and three deer blinds had been stolen from a gated area on the company's property in Becker County. The gate was left open after the theft, and a combination lock that had been used to secure the gate was replaced by a Brinks keyed padlock that D.H. did not recognize. D.H. reported the theft to the Detroit Lakes police department. Officer J.S. responded to investigate the incident. A surveillance video from the Lakeshirts property recorded that the theft occurred at approximately 5:13 a.m. on July 29, 2019, when a dark-colored Dodge Ram pickup truck arrived at the gated area. The driver wore a neon yellow worker's vest. He exited the pickup truck to open the gate before driving inside the gated area. Shortly after, the pickup truck left with the three deer blinds and a trailer hitched to its back. The Lakeshirts surveillance video also captured the same Dodge Ram pickup truck driving around the property at approximately 2:29 p.m. on July 27, 2019. It returned at around 7:15 p.m. that day, when an individual dressed in a bright neon yellow worker's vest exited from the driver's seat and examined the gate.

Based on the type of vehicle depicted in the Lakeshirts surveillance footage, Officer J.S. identified several distinctive features of the Dodge Ram pickup truck used in the theft. It had (1) a greyish black color; (2) a beacon light on the roof of the truck; and (3) a dolly in the bed of the truck. Subsequently, Officer J.S. learned that someone had stolen a license plate off a Dodge pickup truck from Wold's RV in Detroit Lakes on July 27, 2019. The stolen plate was linked to a drive-off at a gas station in Carlton in the afternoon of July 29,

2019. After viewing the surveillance video from Wold's RV and the photographs from the gas station drive-off in Carlton, Officer J.S. testified at trial that both incidents appeared to have involved the same dark grey pickup truck with a dolly in its bed like the one depicted in the Lakeshirts theft. Officer J.S. identified the same driver wearing a neon yellow worker's vest in all three incidents.

In order to obtain more information about the vehicle and a list of possible owners, one of Officer J.S.'s colleagues contacted Webber, a Detroit Lakes car dealership, and showed them a still photograph from the Lakeshirts theft. The dealership identified the pickup truck (1) as a 2500-series Dodge Ram; (2) as a gas version of the truck rather than the common diesel version; (3) as metallic grey in color; (4) having a chrome trim package; and (5) having a Pulse sticker on the rear driver's side window indicative of vehicles sold in the Twin Cities area. Webber also informed the officer that someone had stolen dealership plates from their lot and used them in several gas station drive-offs in Winona, Minnesota, and Steven Point, Wisconsin, back in April 2019. Victims of these drive-offs sent still photographs of the incidents to Webber because the vehicle had a dealership plate from them, but Webber never sold a pickup with these features. Moreover, the same individual wearing a neon yellow worker's vest can be seen driving the pickup truck in all the incidents.

From the still photographs of the gas station drive-offs, Officer J.S. noticed a Luther Brookdale sticker on the back of the pickup truck and contacted its sales manager. The sales manager provided a list of fewer than six individuals who had purchased a 2500 Dodge Ram, between late 2018 and early 2019, with the same features identified in the

surveillance videos and by the Webber dealership. Officer J.S. compared the buyers' driver's-license photographs to the still photographs from the gas station drive-offs as well as the Lakeshirts and Wold's RV surveillance videos. Based on several distinctive facial features such as the ears, nose, short hair, and goatee, Officer J.S. identified appellant Nathan Thomas Veessenmeyer as the individual depicted in these incidents.

After determining appellant's identity, Officer J.S. found that a state trooper had stopped appellant heading towards the Detroit Lakes area on Interstate 94 on June 25, 2019, based on appellant's lack of license plates. The squad video of the stop showed that appellant's pickup truck had all the distinctive features as the one seen in the still photographs from the drive-offs and surveillance videos from Wold's RV and Lakeshirts. Specifically, they shared the same make and model, beacon lights, dolly in the bed of the truck, and Pulse stickers.

Respondent State of Minnesota charged appellant with theft of property valued at over \$5,000, in violation of Minn. Stat. §§ 609.52, subds. 2(a)(1), .3(2) (2018), and arrested him. Officer J.S. obtained a buccal swab from appellant and forwarded it to the Minnesota Bureau of Criminal Apprehension (BCA) for testing. A forensic scientist with the BCA testified that appellant was a possible contributor to the DNA profile from the padlock, whereas 84.7% of the total population was excluded.

Appellant pleaded not guilty, waived his right to a jury trial, and proceeded to a court trial on September 10, 2021. The district court found appellant guilty and sentenced him to 23 months in prison. This appeal follows.

## **DECISION**

Appellant argues that the circumstantial evidence at trial failed to prove beyond a reasonable doubt that he was the perpetrator of the Lakeshirts theft. We disagree.

As an initial matter, the state argues that it proved appellant's identity with sufficient direct evidence and did not rely on circumstantial evidence. We are not convinced. "We have defined circumstantial evidence as "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.'" *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (citations omitted). "In contrast, direct evidence is "[e]vidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.'" *Id.* (citations omitted). The surveillance footage did not capture the perpetrator's physical appearance beyond that the suspect wore a neon yellow worker's vest and drove a pickup truck with distinctive features. Moreover, there was no eyewitness of the theft in Lakeshirts. Consequently, the district court can only *infer* that the individual who stole Lakeshirts's property was also involved in the gas station drive-offs in Carlton, the license-plate theft in Wold's RV, and the state-patrol stop on July 25, 2019. The state therefore relied on circumstantial evidence to prove appellant's identity. *See id.* (explaining that whereas direct evidence proves a fact without inference or presumption, circumstantial evidence always requires an inferential step to prove a fact).

*When the state relies on circumstantial evidence to prove an element of an offense, we review the sufficiency of the state's evidence with heightened scrutiny consisting of two steps. State v. Hawes*, 801 N.W.2d 659, 668 (Minn. 2011). First, we identify the circumstances proved by deferring to the factfinder's "acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances

proved by the [s]tate.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted). In other words, we must “construe conflicting evidence in the light most favorable to the verdict” and “disregard testimony that is inconsistent with the verdict.” *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008); *Hawes*, 801 N.W.2d at 6669. Second, we “determine whether the circumstances proved are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis except that of his guilt.” *Hawes*, 801 N.W.2d at 669 (quotations omitted). In doing so, we consider the circumstances proved as a whole rather than reviewing each circumstance in isolation. *State v. Andersen*, 784 N.W.2d 320, 332 (Minn. 2010). While we defer to the factfinder when reviewing the circumstances proved, we give “no deference to the fact finder’s choice between reasonable inferences.” *Id.* at 329-30 (quotation omitted). “[W]e will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture.” *Id.* at 330. We apply the same standard of review in court trials as in jury trials when evaluating the sufficiency of the evidence. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

Appellant argues that the state’s evidence was insufficient to prove that he was the perpetrator. Viewing the evidence in a light most favorable to appellant’s conviction, the circumstances proved at trial relating to the issue of identity established the following: (1) during the state-patrol stop on July 25, 2019, appellant was wearing a neon yellow worker’s vest like the one worn by the driver seen on the Lakeshirts and Wold’s RV surveillance footage on July 27, 2019, and on the Lakeshirts surveillance footage of the theft on July 29, 2019; (2) appellant’s appearance in court and on his driver’s-license picture matched the distinctive facial features as the individual identified in the July 27,

2019 Wold's RV footage and the still photographs from the gas station drive-off in Carlton on July 29, 2019; (3) the distance between Detroit Lakes and Carlton County is close enough for an individual to appear in both locations on the same day; (4) appellant's pickup truck, as identified in the state-patrol footage on July 25, 2019, is linked to appellant through the vehicle's VIN number and matches the pickup truck depicted in the July 27, 2019 Wold's RV footage and the July 29, 2019 Lakeshirts footage of the theft; and (5) DNA evidence did not exclude appellant as a possible contributor to the DNA found on the padlock at the Lakeshirts property after the theft.

These circumstances, viewed as a whole, are consistent with the reasonable inference that appellant was the perpetrator and inconsistent with any rational inference of innocence. Appellant claims that the state failed to eliminate the possibility of innocence, because an unknown individual, who looks like appellant, wore a similar neon yellow vest, and drove an identical 2500-series Dodge Ram pickup truck with the same distinctive features, could have stolen the property at Lakeshirts. But a rational hypothesis of innocence must be based on more than mere conjecture or speculation, and there is no evidence in the record that is consistent with this theory. *See State v. Lahue*, 585 N.W.2d 785, 789 (Minn. 1998) ("We will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture.").

Appellant also contends that the DNA evidence against him was "very weak" because 15.3% of the general population could have been the possible contributor to the DNA found on the padlock at Lakeshirts. Appellant's argument is misguided. While the district court stated that it did "not afford the DNA evidence any great weight due to the

low percentage of the population it excluded, and the small number of loci tested,” the DNA evidence is still consistent with appellant’s guilty verdict. Most importantly, we must review the circumstances proved as a whole rather than in isolation. *Id.* at 332. Applying this standard, we conclude that the state proved appellant’s identity as the perpetrator beyond a reasonable doubt.

**Affirmed.**